

REMARKS

The Final Office Action of July 12, 2006 has been carefully reviewed and these remarks are responsive thereto. Claim 1-9 are pending. Claims 1-9 stand rejected.

Claim Rejections Under 35 USC §102

Claims 1-9 remain rejected under 35 USC §102(e) as being anticipated by U.S. Publication No. 2004/0253945 ("Janik").

In the Response filed May 11, 2006, the Applicant argued that Janik does not teach or suggest "synchronizing data stored within the first remote store with data contained within a first publisher record stored within the computer device." The first Office Action suggested that this feature is found in Janik in paragraph 0115. In response, the Applicant pointed out that paragraph 0115 merely describes synchronizing information across three platforms and there is no mention of a "publisher record." In response to this argument, on page 4, the present Office Action states that "[a]t page 9, paragraph 0115 Janik discloses synchronizing user data and related information, which corresponds to publisher record."

It appears that the Office Action is suggesting that the claimed "first publisher record" is met by the "user data and related information" found in Janik. It is well known in the art that a record contains data or information and that a record is not equivalent to data or information. In fact, this distinction is clear from the first few lines of paragraph 24 of the present application, which states:

In an illustrative implementation, PDA publisher record 306, mobile phone publisher record 310 and composite record 314 may each include contact data for John Smith. A user may update John Smith's contact information stored in PDA 308. Synchronizing with computer device 302 causes PDA publisher record 306 to include the updated contact information. (emphasis added)

The Applicant again respectfully submits that the cited section of Janik does not teach or suggest "synchronizing data stored within the first remote store with data contained within a first publisher record stored within the computer device."

In the Response filed May 11, 2006, the Applicant also argued that Janik does not teach or suggest "synchronizing the data contained within first publisher record with data contained within a composite record stored on the computer device." The first Office Action suggested that this feature is found in Janik in paragraph 0116. In response, the Applicant pointed out that paragraph 0116 merely describes storing data on a storage gateway and mirroring data and there is no mention at all of a "publisher record" or a "composite record." In response to this argument, on page 4, the present Office Action states that "[t]he content editor in paragraph 0156 on page 9, corresponds to the composite record since all the digital content copied from the website to the computer is stored in the content editor."

The basis of this rejection remains unclear. On page 2 the present Office Action summarily states that the feature "synchronizing the data contained within first publisher record with data contained within a composite record stored on the computer device" is found in Janik at paragraph 0116. Then, in response to the Applicant's arguments describing why paragraph 0116 does not include this limitation, two pages later on page 4, the present Office Action indicates that the claimed "composite record" is found in Janik at paragraph 0156. The Applicant respectfully submits that the claimed feature of "synchronizing the data contained within first publisher record with data contained within a composite record stored on the computer device" is not found in paragraphs 0116 or 0156 or any other paragraph of Janik.

Moreover, the present Office Action appears to equate a content editor with the claimed "composite record." As mentioned in Janik at paragraphs 0133-0134, the content editor is part

of a graphical user interface module and provides the user with the ability to group audio files into user-defined playlists. There is simply no discussion in Janik of the content editor being equivalent to any type of record. On page 4 the Office Action states that “[t]he content editor in paragraph 0156 on page 9, corresponds to the composite record since all of the digital content copied from the website to the computer is stored in the content editor.” In addition to not addressing the entire claim limitation, this statement is not accurate. In paragraph 0134 Janik explains that the content editor allows the user to create playlists that contain “a list of and paths to audio files or the URLs or IP addresses of audio streams.”

In the Response filed May 11, 2006, the Applicant also argued that Janik does not teach or suggest “synchronizing the data contained within composite record with data contained within a second publisher record stored within the computer device.” The present Office Action again summarily states that this feature is found in Janik at paragraph 0119 and does not respond to the arguments provided by the Applicant. The Applicant again requests that the Office indicate which elements of Janik are alleged to read on the claimed “second publisher record.”

The present Office Action also does not respond to the Applicant’s arguments with respect to claims 3 and 4. MPEP section 707.07(f) indicates:

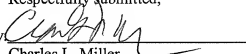
Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and answer the substance of it.

This procedure has not been followed. The Applicant accordingly requests that the finality of the Office Action be withdrawn and that the Office issue a new Office Action. Moreover, for at least the reasons provided above and made of record the Applicant submits that claims 1-9 are patentable over Janik and requests reconsideration of the rejection.

CONCLUSION

Applicant respectfully submits that the instant application is in condition for allowance and respectfully solicits prompt notification of the same. However, if for any reason the examiner believes the application is not in condition for allowance or there are any questions, the examiner is requested to contact the undersigned.

Date: August 25, 2006

Respectfully submitted,
By 
Charles L. Miller
Registration No. 43,805
BANNER & WITCOFF, LTD.
10 South Wacker Drive
Suite 3000
Chicago, IL 60606
Telephone: 312-463-5000
Facsimile: 312-463-5001